

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AURELIUS CAPITAL PARTNERS, LP and :
AURELIUS CAPITAL MASTER, LTD., et al. :

Plaintiffs, :

- against - :

THE REPUBLIC OF ARGENTINA, :

Defendant. :
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(Additional case captions on next two pages) :
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07 Civ. 2715 (TPG)

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>4/8/10</u>
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[PROPOSED] MODIFIED *EX PARTE* ORDER VACATING,
IN PART, *EX PARTE* ORDERS OF ATTACHMENT,
RESTRAINING NOTICES, WRITS OF EXECUTION AND "OMNIBUS ORDERS"

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VARIOUS ACTIONS

: 02 Civ. 1773 (TPG)
: 02 Civ. 3804 (TPG)
: 02 Civ. 3808 (TPG)
: 02 Civ. 4124 (TPG)
: 03 Civ. 1680 (TPG)
: 03 Civ. 2507 (TPG)
: 03 Civ. 4693 (TPG)
: 03 Civ. 6268 (TPG)
: 03 Civ. 8120 (TPG)
: 03 Civ. 8845 (TPG)
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: 04 Civ. 3314 (TPG)
: 04 Civ. 6137 (TPG)
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: 04 Civ. 7504 (TPG)
: 05 Civ. 177 (TPG)
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: 05 Civ. 6599 (TPG)
: 05 Civ. 8195 (TPG)
: 05 Civ. 8687 (TPG)
: 05 Civ. 10636 (TPG)
: 06 Civ. 207 (TPG)
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: 07 Civ. 937 (TPG)
: 07 Civ. 1910 (TPG)
: 07 Civ. 2690 (TPG)
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: 07 Civ. 5807 (TPG)
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: 07 Civ. 10656 (TPG)
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: 07 Civ. 11327 (TPG)
: 07 Civ. 11382 (TPG)
: 07 Civ. 11495 (TPG)
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: 08 Civ. 440 (TPG)
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: 08 Civ. 3302 (TPG)
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: 08 Civ. 6625 (TPG)
: 08 Civ. 6978 (TPG)
: 09 Civ. 1707 (TPG)
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: 09 Civ. 8275 (TPG)
: 09 Civ. 8299 (TPG)
: 09 Civ. 8757 (TPG)
: 09 Civ. 10620 (TPG)

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WHEREAS, on January 13, 2010, by Order to Show Cause, Banco Central de la República Argentina (“BCRA”) moved to vacate certain *ex parte* writs of execution, attachment orders, restraining orders and “Omnibus Orders” that EM Ltd. and NML Capital, Ltd. (collectively, the “EM/NML Plaintiffs”), and Aurelius Capital Partners, LP, Aurelius Capital Master, Ltd., ACP Master, Ltd., and Blue Angel Capital I LLC (collectively, the “Aurelius Plaintiffs”), obtained on January 11 and 12, 2010 (the “January 11-12 *Ex Parte* Orders,” and together with all subsequently issued orders seeking substantially identical relief, the “January 2010 *Ex Parte* Orders”) and subsequently served on the Federal Reserve Bank of New York (the “FRBNY”);

WHEREAS, the January 11-12 *Ex Parte* Orders by their terms permitted the EM/NML Plaintiffs and the Aurelius Plaintiffs to attach or restrain all property directly or indirectly held or maintained in the name of, in trust held by, or for the use or benefit of BCRA, whether for its own account or for the benefit of Argentina, within the Court’s jurisdiction at the FRBNY and at any of 41 other financial institutions;

WHEREAS, on January 13, 2010, a hearing was held on BCRA’s motion to vacate the January 11-12 *Ex Parte* Orders, at which all counsel were given an opportunity to be heard (the “January 2010 Hearing”);

WHEREAS, at the January 2010 Hearing, the Court directed the parties to work out a stipulation that would permit BCRA to conduct its operations through certain “Originally Attached FRBNY Accounts” (as that term is defined by a Stipulation and Consent Order entered on January 15, 2010 (the “Consent Order”)) pending further order of the Court;

WHEREAS, on January 14 and 15, the Aurelius Plaintiffs obtained additional *ex parte* attachment and restraining orders (the “January 14-15, 2010 *Ex Parte* Orders”);

WHEREAS, on January 15, 2010, BCRA, the Republic of Argentina, the EM/NML Plaintiffs and the Aurelius Plaintiffs entered into the Consent Order, providing, among other things, that the January 2010 *Ex Parte* Orders “are vacated as to the Originally Attached FRBNY Accounts except as to the Originally Attached Property [as that term is defined in the Consent Order]. . . but in all other respects remain in effect pending further order of the Court,” Consent Order ¶ 2;

WHEREAS, on February 3, 2010, by Order to Show Cause, BCRA moved to vacate the January 14-15, 2010 *Ex Parte* Orders as to contract carriers like Brinks, Inc. (“Brinks”) that physically transport paper and coin currency from the FRBNY to BCRA in Argentina (the “February 3 Vacatur Motion”);

WHEREAS, BCRA relied on the Declaration of Juan Basco, dated February 3, 2010, and all pleadings, papers and evidence submitted in connection with the Aurelius Plaintiffs’ actions, and the actions of the EM/NML Plaintiffs, to support the February 3 Vacatur Motion;

WHEREAS, on February 11, 2010, BCRA, the Republic and the Aurelius Plaintiffs entered into a stipulation, so ordered by the Court on that day (the “February 11 Consent Order”);

WHEREAS, on February 11, 2010, BCRA moved *ex parte* to vacate all other January 2010 *Ex Parte* Orders to the same extent that the February 11 Consent Order vacated the January 14-15, 2010 *Ex Parte* Orders, and to impose a duty of confidentiality on all affected parties (the “February 11 *Ex Parte* Motion”);

WHEREAS, on February 11, 2010, BCRA submitted and the Court signed an *Ex Parte* Order Vacating, in Part, *Ex Parte* Orders of Attachment, Restraining Notices, Writs of

Execution and “Omnibus Orders” (the “February 11 *Ex Parte* Order”), which provided for Plaintiffs to file any objection thereto by February 22, 2010; and

WHEREAS, on February 17, 2010, the Aurelius Plaintiffs filed an Objection to the February 11 *Ex Parte* Order;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The February 11 *Ex Parte* Order is hereby vacated in all respects and replaced by this Order;

2. The January 2010 *Ex Parte* Orders are hereby vacated as to contract carriers that transport or deliver paper and coin currency from the FRBNY to BCRA, including without limitation the contract-carrier arm of Brinks, with respect to the physical transportation of paper and coin currency from the FRBNY to BCRA in Argentina. In all other respects, the January 2010 *Ex Parte* Orders remain in effect as of the date they were served, pending further order of the Court.

3. Nothing herein shall enlarge or modify the extent or types of operations that can be conducted through the Originally Attached FRBNY Accounts, including with respect to the physical transportation of paper and coin currency from the FRBNY to BCRA in Argentina, under the January 15, 2010 Consent Order and the stipulations and orders of the Court described therein.

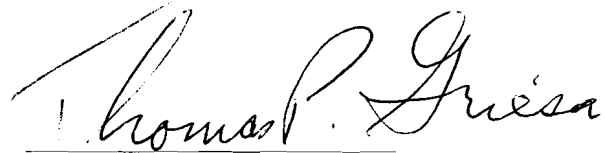
4. The February 11 *Ex Parte* Motion and all supporting papers, all papers in opposition to the February 11 *Ex Parte* Motion, and all related motions to confirm or vacate the relief granted herein, shall be treated by all parties as “Highly Confidential Information” and filed under seal in accordance with the provisions of the Stipulated Protective Order dated September 10, 2008 attached hereto as Annex A.

5. The parties may disclose this Order to garnishees as necessary to achieve the purposes of the Order.

6. The entry of this Order will have no effect on the legal position of the parties hereto with respect to any right of the plaintiffs to restrain, attach or execute upon any property of BCRA or the Republic, and no party may rely upon this Order in support of an argument for or against the existence of any such right or an argument about the use or ownership of the property to which the January 2010 *Ex Parte* Orders are directed.

7. Nothing herein shall constitute an express or implied waiver of sovereign immunity, nor consent by any party to personal or subject matter jurisdiction.

Dated: March 8, 2010

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is written in a cursive, flowing style with a large initial 'T'.

Hon. Thomas P. Griesa
United States District Judge